



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/086,541	03/04/2002	Bernadette M. Gibbs	53394.000565	1045
56679	7590	09/15/2006	EXAMINER	
GOSZ AND PARTNERS, LLP 450 BEDFORD STREET LEXINGTON, MA 02420		KIDWELL, MICHELE M		
		ART UNIT		PAPER NUMBER
		3761		

DATE MAILED: 09/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/086,541	GIBBS, BERNADETTE M.	
	Examiner Michele Kidwell	Art Unit 3761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 26 June 2006.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-8 and 10-28 is/are pending in the application.
- 4a) Of the above claim(s) 5, 7-8, 14-28 is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-4,6 and 10-13 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date _____.
- 4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1 – 4, 6 and 10 – 13 are rejected under 35 U.S.C. 102(a) as being anticipated by Pargass et al. (US 6,572,596)

With reference to claim 1, Pargass et al. (hereinafter “Pargass”) discloses an absorbent article comprising: a main body having a first main body waist portion, a second main body waist portion and a central main body portion disposed between the first and second main body waist portions, the main body having orthogonal vertical and lateral axes; a pair of side panels, each side panel adapted for releasably connecting the first main body waist portion to the second main body waist portion, the first main body waist portion, the second main body waist portion and the side panels collectively defining a waist opening edge and two leg opening edges, each side panel being formed from a first side portion extending laterally outward from the first main body waist portion and a second side portion extending laterally outward from the second main body waist portion, the first side portion being capable of attachment to the second side portion by a side seam (24) intersecting the waist opening edge at a first non-parallel seam angle relative to the vertical axis and intersecting one of the leg openings at a second seam angle relative to the vertical axis when the first and second side

portions are in a fully stretched condition; and a pair of adjustment tabs (26), each tab being attached to one side portion of an associated side panel, each of the adjustment tabs including the side seam of the associated side panel and extending outward therefrom and having a lateral tab edge (figure 1), and a pair of adjustment tab fasteners (44) adapted for removably attaching the adjustment tabs associated with the side portions to a receiving portion of the main body as set forth in col. 8, line 38 to col. 9, line 5 and in the figures.

Regarding claim 2, Pargass discloses an absorbent article wherein each of the at least one adjustment tab fastener includes a gripping member as set forth in col. 8, lines 64 – 66.

As to claim 3, Pargass discloses an absorbent article wherein the receiving portion includes at least one fastener attachment member (28), the fastener attachment member being adapted for reversible mating engagement with the gripping member as set forth in col. 9, lines 34 – 37.

With reference to claim 4, Pargass discloses an absorbent article wherein the gripping member is disposed on the adjustment tab, the gripping member being positioned so that the gripping member can engage the receiving portion of the main body when the garment is arranged in an adjusted configuration on a wearer as set forth in col. 9, lines 28 – 37.

Regarding claim 6, Pargass discloses an absorbent article wherein each of the at least one adjustment tab fastener includes a fastening strip extending laterally outward from the lateral tab edge, the gripping member being disposed on the fastening

strip, the fastening strip and the gripping member being adapted so that the gripping member can engage the receiving portion of the main body when the garment is arranged in an adjusted configuration on a wearer as set forth in col. 9, lines 28 – 37 and in the figures.

With respect to claims 10 – 13, see col. 7, line 60 to col. 8, line 20.

Response to Arguments

Applicant's arguments filed June 26, 2006 have been fully considered but they are not persuasive.

The examiner contends that the applicant's arguments are not commensurate with the scope of the claims. For example, the applicant argues that side panels of the instant application are separate elements as required by the claims. There is no claim language requiring the side panels to be separate elements. Nonetheless, the examiner contends that the side panels (18) may be considered as separate elements in that they are made of a different material that is formed separately from the remainder of the article. See col. 6, lines 49 – 63. The examiner also contends that the side panels allow the waist portions to be releasably attached to each other as claimed in by use of the adjustment tabs. The adjustment tabs allow the waist portions to be released and reattached in order to provide the desired fit.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**.

See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michele Kidwell whose telephone number is 571-272-4935. The examiner can normally be reached on Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on 571-272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Michele Kidwell
Primary Examiner
Art Unit 3761